

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD YOUNG,

Plaintiff,

v.

JEFFREY BEARD, Secretary of Corrections;
JOHN S. SHAFFER, Executive Deputy Secretary;
WILLIAM STICKMAN, Deputy Secretary;
RAYMOND SOBINA, Supervisory Superintendent/
Western Region; ALAN B. FOGEL, Bureau of
Health Care & Food Services Director; HARRY
WILSON, Superintendent at S.C.I. Fayette;
ROBERT TRETINIK, Corrections Health Care
Administrator at S.C.I. Fayette; MICHAEL
SCRIBNER, Food Services Manager II at S.C.I.
Fayette; TOM MORAN, Food Services Super-
visor at S.C.I. Fayette; DAVIS SWEITZER, Food
Services Supervisor at S.C.I. Fayette; MICHAEL
HERBIK, D.O. at S.C.I. Fayette; ADAM
EBELMAN, State Medical Director for S.C.I.
Fayette; and PRISON HEALTH SERVICES, INC.,
for S.C.I. Fayette,

Defendants.

Civil Action No.06-160

Judge Joy Flowers Conti/
Magistrate Judge Amy Reynolds Hay

Re: Dkt. No. [23]

MEMORANDUM ORDER

AND NOW, this 31st day of March 2008, it appearing that this Court had previously vacated the order adopting the Report and Recommendation of the Magistrate Judge, Dkt. [44], in order to permit Plaintiff to file objections within a limited time in light of his representation that he never received the Report, and it further appearing that Plaintiff nevertheless failed to file objections after being afforded the opportunity to do so, the Court hereby readopts the Report as the opinion of the Court and IT IS HEREBY ORDERED that the motion to dismiss filed by

defendants Dr. Adam Ebelman, Dr. Michael Herbik, and Prison Health Services, Inc. [Dkt. No. 23] is granted as to plaintiff's procedural due process claims and denied in all other respects. IT IS FURTHER ORDERED that, pursuant to the Prison Litigation Reform Act, plaintiff's claim that his food is prepared and cooked by prisoners thereby violating the Eighth Amendment is dismissed for failure to state a claim.

/s/ Joy Flowers Conti
Joy Flowers Conti
United States District Judge

cc: The Honorable Amy Reynolds Hay
United States Magistrate Judge

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All counsel of record by Notice of Electronic Filing